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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/709,878

06/02/2004

Timothy Grant Hall

3877

33687 7590 06/06/2007  
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EXAMINER

PRETLOW, DEMETRIUS R

ART UNIT

PAPER NUMBER

2863

MAIL DATE

DELIVERY MODE

06/06/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



## UNITED STATES DEPARTMENT OF COMMERCE

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10709878	6/2/2004	HALL, TIMOTHY GRANT	

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## EXAMINER

Demetrius Pretlow

ART UNIT	PAPER
2863	20070602

DATE MAILED:

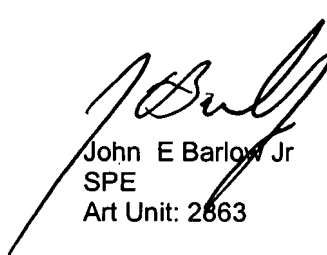
**Please find below and/or attached an Office communication concerning this application or proceeding.**

## Commissioner for Patents

The reply filed on July 24, 2006 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): The manner in making changes to both the specification and the claims does not comply with current practice under federal rules 37 CFR § 1.121. As applicant is prosecuting the application prose, a detail listing of the informalities has been attached. Also, see 37 CFR 1.111.

Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

*Attached: Detail listing.*

  
John E Barlow Jr  
SPE  
Art Unit: 2863

Art Unit: 2863

The following informalities with respect to the July 24, 2006 response have delayed prosecution. The office regrets the postponement in the examination on the merits but in order for the application to be processed and prepared for eventual publication, the informalities in the response need to be remedied and brought into compliance with current rules and practice. Examination on the merits may then continue. For applicant's convenience, the specific informality will be enumerated; the defective portion of applicant's response will be highlighted; and the rule guiding the corrections with additional instructions will be provided in the prescribed order.

### Detailed Correction Requirements for Conformance

1. The substitute specification filed July 24, 2006 has not been entered because it does not conform to 37 CFR 1.125(b) and (c) because: the statement as to a lack of new matter under 37 CFR 1.125(b) is missing; and a marked-up copy of the substitute specification showing the additions and or deletions has not been supplied (in addition to the clean copy).

It appears that a clean copy of the entire written description was submitted, including updated versions of the claims. It is noted that paragraph number [0035] of the original specification was deleted and paragraph number [0036] has been substantially changed. The claims section was submitted with a portion of the specification included on the same page (page 7.) Likewise, the Abstract of Disclosure was submitted on the same page as a portion of the claims (page 13.)

When applicant attempts to submit a clean copy of the specification the following rule applies.

**§ 1.125 Substitute specification.**

(a) If the number or nature of the amendments or the legibility of the application papers renders it difficult to consider the application, or to arrange the papers for printing or copying, the Office may require the entire specification, including the claims, or any part thereof, be rewritten.

(b) **Subject to § 1.312, a substitute specification, excluding the claims, may be filed at any point up to payment of the issue fee if it is accompanied by a statement that the substitute specification includes no new matter.**

(c) **A substitute specification submitted under this section must be submitted with markings showing all the changes relative to the immediate prior version of the specification of record. The text of any added subject matter must be shown by underlining the added text. The text of any deleted matter must be shown by strike-through except that double brackets placed before and after the deleted characters may be used to show deletion of five or fewer consecutive characters. The text of any deleted subject matter must be shown by being placed within double brackets if strike-through cannot be easily perceived. An accompanying clean version (without markings) must also be supplied. Numbering the paragraphs of the specification of record is not considered a change that must be shown pursuant to this paragraph.**

(d) A substitute specification under this section is not permitted in a reissue application or in a reexamination proceeding.

[48 FR 2712, Jan. 20, 1983, effective Feb. 27, 1983; revised, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; paras. (b)(2) and (c) revised, 65 FR 54604, Sept. 8, 2000, effective Nov. 7, 2000; paras. (b) and (c) revised, 68 FR 38611, June 30, 2003, effective July 30, 2003]

Applicant's corrected response should include:

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- a clean copy of the specification which contains the corrections but does not have claims or abstract of disclosure on the same pages thereof;
- a markup copy of the specification which illustrates those changes that have been made from the original specification; and
- a statement that the substitute specification includes no new matter. This should be made on a remarks page and not be part of the substitute specification.

2. The amendment to the claims is not compliant with respect to 35 USC 1.121. Wholesale changes were made to the claims in the July 24, 2006. The amendments to the claims fail to (1) use status identifiers {e.g. claim 1, (currently Amended); claim 2 (Original), etc.} The amendments to the claims also fail to (1) identify changes by underlining and/or by strike-through or double bracketing.

Claim 1 presents "new" claim limitations as the text of the claim has been altered. The required identifying markings and labeling have been omitted. This is contrary to the rules and presents both during the examination and ultimately when the application is passed to publication.

When applicant submits an amendment to the claims the following rule applies:

§ 1.75 Claim(s).

(h) The claim or claims must commence on a separate physical sheet or electronic page. Any sheet including a claim or portion of a claim may not contain any other parts of the application or other material.

§ 1.121 Manner of making amendments in applications.

(c) Claims. Amendments to a claim must be made by rewriting the entire claim with all changes (e.g., additions and deletions) as indicated in this subsection, except when the claim is being canceled. Each amendment document that includes a change to an existing claim, cancellation of an existing claim or addition of a new claim, must include a complete listing of all claims ever presented, including the text of all pending and withdrawn claims, in the application. The claim listing, including the text of the claims, in the amendment document will serve to replace all prior versions of the claims, in the application. In the claim listing, the status of every claim must be indicated after its claim number by using one of the following identifiers in a parenthetical expression: (Original), (Currently amended), (Canceled), (Withdrawn), (Previously presented), (New), and (Not entered).

(1) Claim listing. All of the claims presented in a claim listing shall be presented in ascending numerical order. Consecutive claims having the same status of "canceled" or "not entered" may be aggregated into one statement (e.g., Claims 1–5 (canceled)). The claim listing shall commence on a separate sheet of the amendment document and the sheet(s) that contain the text of any part of the claims shall not contain any other part of the amendment.

(2) When claim text with markings is required. **All claims being currently amended in an amendment paper shall be presented in the claim listing, indicate a status of "currently amended," and be submitted with markings to indicate the changes that have been made relative to the immediate prior version of the claims. The text of any added subject matter must be shown by underlining the added text. The text of any deleted matter must be shown by strike-through except that double brackets placed before and after the deleted characters may be used to show deletion of five or fewer consecutive characters. The text of any deleted subject matter must be shown by being placed within double brackets if strike-through cannot be easily perceived.**

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**Only claims having the status of "currently amended," or "withdrawn" if also being amended, shall include markings. If a withdrawn claim is currently amended, its status in the claim listing may be identified as "withdrawn—currently amended."**

(3) When claim text in clean version is required. **The text of all pending claims not being currently amended shall be presented in the claim listing in clean version, i.e., without any markings in the presentation of text. The presentation of a clean version of any claim having the status of "original," "withdrawn" or "previously presented" will constitute an assertion that it has not been changed relative to the immediate prior version, except to omit markings that may have been present in the immediate prior version of the claims of the status of "withdrawn" or "previously presented."** Any claim added by amendment must be indicated with the status of "new" and presented in clean version, i.e., without any underlining.

(4) When claim text shall not be presented; canceling a claim.

(i) No claim text shall be presented for any claim in the claim listing with the status of "canceled" or "not entered."

(ii) Cancellation of a claim shall be effected by an instruction to cancel a particular claim number. Identifying the status of a claim in the claim listing as "canceled" will constitute an instruction to cancel the claim.

(5) Reinstatement of previously canceled claim. A claim which was previously canceled may be reinstated only by adding the claim as a "new" claim with a new claim number.

The amendment to the claims should include the labeling identifiers as appropriate and prescribed by § 1.121 (c)(2). Claims having text not changed by amendment should follow the instructions outlined in § 1.121 (c)(3).

Claims 1-3, and 5-8 are not properly formatted as they include several periods (.). If such claims were again submitted, objections delaying the prosecution would be made thereto.

§ 1.75 Claim(s).

(h) The claim or claims must commence on a separate physical sheet or electronic page. Any sheet including a claim or portion of a claim may not contain any other parts of the application or other material.

Manual Patent Examining Procedure § 608.01(m)

Each claim begins with a capital letter and ends with a period. Periods may not be used elsewhere in the claims except for abbreviations. See *Fressola v. Manbeck*, 36 USPQ2d 1211 (D.D.C. 1995). Where a claim sets forth a plurality of elements or steps, each element or step of the claim should be separated by a line indentation, 37 CFR 1.75(i).

Upon filing the corrected amendment, please replace the extraneous periods (.) from the claims and replace them with commas and /or semicolons as appropriate.

### **Contact Information**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Demetrius Pretlow whose telephone number is (571) 272-2278. The examiner can normally be reached on Monday-Friday from 8:00 a.m. to 4:30 p.m.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John E. Barlow, can be reached on (571) 272-2269. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DP  
6/2/2007

John E Barlow Jr  
SPE  
Art Unit 2863